

**TOWN OF ABINGDON
REGULAR MEETING
MONDAY, JULY 1, 2019 – 6:30 PM
BARTER THEATRE**

A regular meeting of the Abingdon Town Council was held on Monday, July 1, 2019 at 6:30 pm at the Barter Theatre.

A. WELCOME- *Mayor Craig*

B. ROLL CALL – *Kimberly Kingsley, Clerk*

Members of Council Present:

Mr. Bradley
Mrs. Quetsch
Mr. Webb
Ms. Patterson
Mayor Craig

C. PLEDGE OF ALLEGIANCE – *Derek Webb, Council Member*

D. PUBLIC COMMENTS – Please place your name on the sign-up sheet provided and comments are limited to three (3) minutes per person. **(VIDEO 8:53 – 49:17)**

- Sherry Taylor
- Joyce Wise Dodd
- Paul Blaney
- Richard Macbeth
- Roff Hillman
- Roman Blevins
- Stephen Spangler
- John Crigger
- Cathy Lowe
- Sidney Vaught
- Dyer Moss
- Steve Smith
- Mary Haviland
- David Winship
- Chris Walters
- Becky Caldwell
- Kristin Young

E. APPROVAL OF MINUTES (VIDEO 49:18 – 49:58)

- June 3, 2019 Regular Meeting

On motion by Ms. Patterson, seconded by Mr. Webb, Council approved the June 3, 2019 minutes as presented.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

F. RESOLUTION – (VIDEO 49:59 – 56:49)

1. A Resolution of the Council for the Town of Abingdon honoring and recognizing Wayne Miller for his dedication to the Virginia Creeper Trail – *Jayne Duehring, Director of Tourism and Lisa Quigley, Executive Director of Virginia Creeper Trail Conservancy*

Jayne Duehring, Director of Tourism read the read the Resolution honoring Wayne Miller for his dedication to the Virginia Creeper Trail. Jayne Duehring and Lisa Quigley presented the frame Resolution to Mr. Miller.

On motion by Ms. Patterson, seconded by Mr. Bradley, Council approved the Resolution as read honoring Wayne Miller.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

G. CONSIDERATION OF APPEAL – (VIDEO 56:55 – 1:11:45)

1. Consideration of appeal of the Certificate of Appropriateness (COA) approved by the Planning Commission on May 20, 2019, for Thom Crosby, CroBar LLC regarding Pal's Sudden Service facility filed on behalf of the Friends of Abingdon, Inc. – *Cameron Bell, Counsel*

Cameron Bell, Counsel summarized the matters set forth in the appeal of the Certificate of Appropriateness filed on behalf of the Friends of Abingdon, Inc. to include violation of Section 18-9-8 (c) 1 and Section 18-9-8 (c) 6 of the Entrance Corridor Overlay District; violation of the Special Use Permit application and Declaration of Restrictive Covenants; and that the Planning Commission undertook extensive reviews and evaluations for the Marathon Realty Certificate of Appropriateness application, the Eastman Credit Union Certificate of Appropriateness and Holiday Inn Express and Suites regarding compliance with the requirements of Article 18-9-8 (c) 1 that the material, color and general style of the buildings within a development should be coordinated.

Mayor Craig invited a representative of the Friends of Abingdon, Inc. to make a statement. No one spoke on behalf of the Friends of Abingdon, LLC. Mayor Craig invited Thom Crosby of CroBar, LLC to speak. Mayor Craig invited members of the Planning Commission to speak. No one spoke on behalf of the Planning Commission.

Cameron Bell advised Council that the idea behind an appeal is that a party applying for the Certificate of Appropriateness or also gives an appeal right to a party aggrieved. He further stated that the Friends of Abingdon did not appear in person apparently to provide any basis for its standing to raise this appeal and the appeal documents did not supply any basis for how the Friends of Abingdon were aggrieved by this decision. Mr. Bell continued with further statements and stated that it does not appear that the Friends of Abingdon, Inc. have standing to support the appeal. Mr. Bell added that the Town Manager received a document today from the Friends of Abingdon of having and purporting to be an amended appeal however does not appear to be an attempt to file the amended appeal as it was handed out in a discussion meeting with Town representatives. Mr. Bell stated that it appears that the purported amended appeal dated July 1, 2019 is untimely pursuant to having Zoning Ordinance Section 18-9-9 that must be filed within thirty (30) days of the decision of the Planning Commission. Additional discussion by Mr. Bell ensued.

Council member Al Bradley stated that the Planning Commission deliberated on this matter for quite a while and realized that the Zoning Ordinance in this regard is improperly constituted with no guidelines from which the Planning Commission to make a reasonable decision other than to approve the application. Mr. Bradley stated that revisions have begun to affect future developments.

On motion by Mr. Webb, seconded by Mrs. Quetsch, Council find that Friends of Abingdon, Inc. (“FOA”), lacks standing to make this appeal because FOA is not a “party aggrieved” by the May 20, 2019 Planning Commission approval of the Certificate of Appropriateness; but notwithstanding the FOA’s lack of standing and without waiving that basis; that, Town Council affirm the May 20, 2019 Planning Commission approval of the Certificate of Approval on the basis that the Planning Commission approval was not arbitrary or capricious, but was made after a substantive discussion of the Historic District Entrance Corridor Overlay District Ordinance (“Overlay District”), a September 11, 2015 Special Use Permit which refers to the Overlay District Ordinance and Declaration of Restrictive Covenants

and Reciprocal Access Easement Agreement (“Restrictive Covenants”). And further that the Planning Commission decision was not arbitrary or capricious as applied to Sections 18-9-8(c)(1), regarding coordination of the buildings in the development, Section (C)(6), regarding trademark buildings, the Special Use Permit which refers to the Overlay District or the Restrictive Covenants; Town Council deny the purported Amended Appeal dated July 1, 2019, as untimely pursuant to Abingdon Zoning Ordinance Section 18-9-9 that must be filed with the Town Manager within thirty (30) days of the decision of the Planning Commission and also that the remedy sought by this purported Amended Appeal is not a proper exercise of Town Council authority sitting as an appellant body.

Ms. Patterson thanked everyone for attending and exercising right of speech and stated that there were some issues in the past with some businesses that she felt was not friendly and fair and would share what she could. Ms. Patterson further stated that the Council has recommended to the Planning Commission that some Ordinances be changed so that it is fair for all businesses to participate in building in the same way that they need to participate to be fair to every business.

Mayor Craig spoke in favor of Mr. Webb’s motion stating that Pal’s was not because of a lot of reasons Ms. Patterson brought up, but the Council’s role is not to mess with the Planning Commission’s business but Council’s role is to exercise oversight. Mayor Craig stated that he viewed the action by the Town’s Planning Commission and found they discussed this matter very thoroughly, deliberated and took everything very seriously, acting in a professional manner. Mayor Craig stated that he supported this because it is beneficial to the Town and he does not think it violates any ordinances and further stated that he has reviewed the Town’s Ordinances and the Friends of Abingdon’s petition (appeal) finding no evidence whatsoever that the Planning Commission acted in an arbitrary and capricious manner. Mayor Craig thanked the Planning Commission for the fine job for serving.

The roll call vote was as follows:

Mr. Bradley	Abstained
	(Voted in favor of Pal’s as a member of the Planning Commission)
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

**H. PETITIONS, PUBLIC HEARINGS AND FIRST READING OF ORDINANCES -
(VIDEO 1:18:08 - 1:20:24)**

1. Public Hearing regarding application for a special use permit, pursuant to Section 17-3 of the Town of Abingdon Zoning Ordinance, proposed construction of automobile

repair, reconditioning and body shop, currently zoned M-1 Industrial District, located at 550 Lowry Drive, Tax Map No. 018-20-2. - **Jason Boswell, Director of Planning**

Jason Boswell, Director of Planning presented Council with information for Special Use Permit pursuant to Section 17-3 of the Town of Abingdon Zoning Ordinance and Article 13, Section 13-2-9 of the M-1 Limited Industrial District. Mr. Boswell stated that the applicant is requesting a 4800 square foot, 3-bay auto repair shop for a small local trucking company to be at 550 Lowry Drive. Mr. Boswell stated that the Planning Commission unanimously approved the application at the May 20, 2019 meeting.

Mayor Craig declared the public hearing open. Hearing no comments, Mayor Craig closed the public hearing.

On motion by Mr. Bradley, seconded by Ms. Patterson, Council recommended that we follow the recommendations of the Planning Commission.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

I. SECOND READINGS - None

J. CONSIDERATION OF BIDS – None

K. REPORTS FROM THE TOWN MANAGER

1. Presentation by the Virginia Chapter of Overmountain Victory Trail Association - **Joella Johnson Barbour, President (VIDEO 1:20:31 – 1:20:50)**

Mayor Craig stated that the representative could not be presented and would continue this matter to another time.

2. Consideration of work session dates for August – December, 2019. - **James Morani, Town Manager (VIDEO 1:20:51 – 1:29:45)**

After discussion, the following dates were agreed upon for Council meetings and work sessions:

August 15, 2019 at 5:00 pm
September 3, 2019 at 6:30 pm
September 18, 2019 at 2:30 pm
October 1, 2019 at 6:30 pm
October 16, 2019 at 2:30 pm
November 4, 2019 at 6:30 pm
November 12, 2019 at 2:30 pm
December 2, 2019 at 6:30 pm
December 19, 2019 at 2:30 pm

L. OLD BUSINESS - MATTERS NOT ON THE AGENDA

M. COUNCIL MEMBER REPORTS (VIDEO 1:29:56 – 1:31:48)

Mr. Bradley stated that he attended the Planning Commission and other meetings. Ms. Patterson stated that she attended lots of meetings, ribbon cutting and a reception honoring government employees for years of service. Mayor Craig thanked Ms. Patterson for attending the ribbon cuttings. Mr. Webb stated that he was always busy.

James Morani, Town Manager thanked the Barter and Town staff for their hard work in moving tonight's meeting.

N. APPOINTMENTS TO BOARDS AND COMMITTEES (VIDEO 1:31:48 – 1:55:18)

1. Planning Commission -

Appointment to fill the expired term of H. Ramsey White, Jr. or reappointment of H. Ramsey White, Jr. for an additional four year term.

2. Sinking Spring Cemetery Committee -

Appointment to fill expired term of Wayne Miller, who is ineligible to serve an additional term.

3. Tree Commission -

Reappointment of Cindy Patterson, who is eligible to serve an additional term.

If Council so desires, Closed Session pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for the purpose of considering applications for appointment for

position on Planning Commission, Sinking Spring Cemetery Committee and/or Tree Commission.

On motion by Mr. Bradley, seconded by Ms. Quetsch, moved that the Abingdon Town Council convene in closed session:

(1) pursuant to §2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, for the consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, namely Berry v. Town of Abingdon, et al; and

(2) pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for the purpose of considering applications for appointment for position on Planning Commission, Sinking Spring Cemetery Committee and/or Tree Commission.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

On motion of Ms. Patterson, seconded by Mr. Bradley, Council reconvened in open session.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

Mr. Bradley moved that the Town Council certify that, in closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in the motion.

The certification was as follows:

Mr. Bradley	I so certify
Mrs. Quetsch	I so certify

Mr. Webb **I so certify**
Ms. Patterson **I so certify**
Mayor Craig **I so certify**

On motion by Ms. Patterson, seconded by Mrs. Quetsch, Council appointed Kirk Sproles to fill the expired term of H. Ramsey White, Jr. to the Planning Commission.

The roll call vote was as follows:

Mr. Bradley **Aye**
Mrs. Quetsch **Aye**
Mr. Webb **Aye**
Ms. Patterson **Aye**
Mayor Craig **Aye**

On motion by Mr. Bradley, seconded by Mr. Webb, Council reappointed Cindy Patterson to serve an additional term on the Tree Commission.

The roll call vote was as follows:

Mr. Bradley **Aye**
Mrs. Quetsch **Aye**
Mr. Webb **Aye**
Ms. Patterson **Aye**
Mayor Craig **Aye**

O. CLOSED SESSION (VIDEO 1:31:48 – 1:52:29) (1:55:18 - 1:56:15)

Pursuant to §2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, for the consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, namely *Berry v. Town of Abingdon, et al, Case No. 191CL19000989-00, Washington County, Virginia Circuit Court.*

On motion by Mr. Bradley, seconded by Ms. Quetsch, moved that the Abingdon Town Council convene in closed session:

(1) pursuant to §2.2-3711(A)(7) of the Code of Virginia, 1950, as amended, for the consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating

or litigating posture of the public body, namely **Berry v. Town of Abingdon, et al;** and

(2) pursuant to the Code of Virginia, 1950, as amended, Section 2.2-3711(A)(1) for the purpose of considering applications for appointment for position on Planning Commission, Sinking Spring Cemetery Committee and/or Tree Commission.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

On motion of Ms. Patterson, seconded by Mr. Bradley, Council reconvened in open session.

The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

Mr. Bradley moved that the Town Council certify that, in closed session just concluded, nothing was discussed except the matter or matters (1) specifically identified in the motion to convene in closed session and (2) lawfully permitted to be discussed under the provisions of the Virginia Freedom of Information Act cited in the motion.

The certification was as follows:

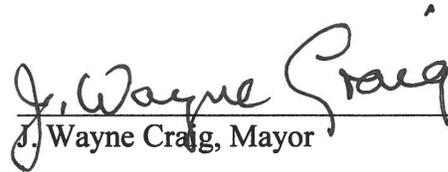
Mr. Bradley	I so certify
Mrs. Quetsch	I so certify
Mr. Webb	I so certify
Ms. Patterson	I so certify
Mayor Craig	I so certify

On motion of Mr. Bradley, seconded by Mr. Webb, Council authorized the Town to enter into the settlement of the matter of Berry vs. Town of Abingdon and others, and to pay \$12,155.28 from any appropriate funds, authorize the Town attorney to draft appropriate documents and the Town Manager to sign those documents.

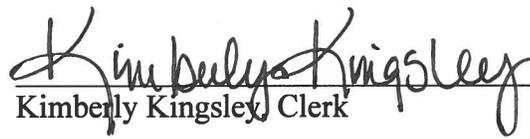
The roll call vote was as follows:

Mr. Bradley	Aye
Mrs. Quetsch	Aye
Mr. Webb	Aye
Ms. Patterson	Aye
Mayor Craig	Aye

Mayor Craig adjourned the meeting.



J. Wayne Craig, Mayor



Kimberly Kingsley, Clerk